

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

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In the Matter of \_\_\_\_\_ )  
Implementation of Section 621(a)(1) of \_\_\_\_\_ )  
the Cable Communications Policy Act of 1984 \_\_\_\_\_ ) MB Docket No. 05-  
311  
as amended by the Cable Television Consumer \_\_\_\_\_ )  
Protection and Competition Act of 1992 \_\_\_\_\_ )

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**COMMENTS OF CHARTER 25**

These Comments are filed by Charter 25 in support of the comments filed by the Alliance for Community Media ("Alliance"), the Alliance for Communications Democracy, the National Association of Telecommunications Officers and Advisors ("NATOA"), and other national local government organizations. Like the Alliance, Charter 25 believes that local governments can issue an appropriate local franchise for new entrants into the video services field on a timely basis, just as they have for established cable services providers. In support of this belief, we wish to inform the Commission about the benefits of cable franchising and the Public, Educational, and Government Access ("PEG") services in our community.

**Cable Franchising in Our Community**

**Community Information**

Denton, TX is a city with a population of \_\_\_\_\_. Our franchised cable provider(s) is/are *[name of cable provider]*. Our community has negotiated cable franchises since *[year first franchise was issued]*.

**Our Current Franchise** *[USE THE FOLLOWING PARAGRAPHS ONLY IF THEY APPLY TO YOUR FRANCHISE. IF YOU HAVE MORE THAN ONE FRANCHISE, PROVIDE THE INFORMATION IN THE FOLLOWING PARAGRAPHS FOR EACH]*

Our current franchise began on *[date]* and expires on *[date]*.

Our franchise requires the cable operator to pay a franchise fee to the *[city/county/town, etc.]* in the amount of \_\_\_\_% of the cable operator's gross revenues.

The revenues for franchise fee purposes are calculated based on the gross revenues of the operator, in accordance with the Federal Cable Act.

Our franchise requires the cable operator to provide the following capacity for public, educational, and/or governmental ("PEG") access channels on the cable system. We currently have \_\_ channels (or capacity) devoted to public access; \_\_ channels (or capacity) devoted to educational access; and \_\_ channels (or capacity) devoted to government access. *DISCUSS THE REQUIREMENTS IN YOUR FRANCHISE FOR PROVISION BY THE CABLE OPERATOR OF CHANNELS FOR PUBLIC, EDUCATIONAL, AND GOVERNMENTAL ("PEG") USE. BREAK THEM DOWN BY CATEGORY -- HOW MANY CHANNELS FOR PUBLIC, HOW MANY FOR EDUCATIONAL, HOW MANY FOR GOVERNMENTAL.*

Our franchise requires that our PEG channels be supported in the following ways by the cable operator: *[DISCUSS GRANTS AND SUPPORT YOUR COMMUNITY RECEIVES TO ASSIST WITH PEG FACILITIES AND OPERATIONS. (SPECIFY IF THE SUPPORT IS ONE-TIME OR ONGOING AND WHETHER IT IS SUBSCRIBER-BASED OR FLAT RATE ALSO DISCUSS ANY IN-KIND PROVISIONS OF EQUIPMENT OR SERVICES FOR PEG CHANNELS SUCH AS ACCESS TO SUBSCRIBER MAILINGS FOR PROMOTIONAL PURPOSES. NOTE, THE FEDERAL STATUTE SPECIFIES THAT COMMUNITIES CAN ONLY REQUIRE MONEY FROM THE CABLE OPERATOR TO BE USED FOR FACILITIES (NOT OPERATIONS). IF YOU ARE RECEIVING OPERATIONAL MONEY OVER AND ABOVE THE FUNDING FROM THE 5% FRANCHISE FEE BECAUSE THE CABLE OPERATOR VOLUNTARILY PROVIDES ADDITIONAL SUPPORT – NOTE THAT THE OPERATIONAL SUPPORT IS VOLUNTARILY PROVIDED BY THE CABLE OPERATOR.]*

Our franchise allows for capital support for PEG Access and other public interest services in the amount of \_\_\_\_% of gross revenues [or \_\_\_\_cents per subscriber per month]. *[DISCUSS THE SPECIFICS OF WHAT GET GETS FUNDED AND HOW]*

Our franchise contains the following institutional network ("I-Net") requirements: *[DISCUSS ANY REQUIREMENTS FOR ANY I-NET OR SIMILAR TELECOMMUNICATIONS FACILITIES LINKING MUNICIPAL BUILDINGS. THE SAME AS FOR PEG SUPPORT (ABOVE), DESCRIBE ANY REQUIREMENTS FOR IN-KIND OR MONETARY SUPPORT OF THESE FACILITIES]* We use our I-Net facilities in the following ways: *[DESCRIBE THE FACILITIES THAT ARE CONNECTED VIA THE INET AND HOW YOU USE THE CAPACITY OF THE INET -- E.G., SOME MUNICIPALITIES USE THEM FOR POLICE OR FIREFIGHTER REMOTE TRAINING, SOME FOR CONTROL OF TRAFFIC LIGHTS, ETC.].*

Our franchise contains the following requirements regarding emergency alerts: *[IF PEG CHANNELS ARE USED, DESCRIBE REQUIREMENTS FOR CARRIAGE OF EMERGENCY ALERT MESSAGES (FOR EXAMPLE, DOES IT REQUIRE CARRIAGE OF STATE AND/OR LOCAL EMERGENCY ALERTS? DOES IT ALLOW LOCAL OFFICIALS ACCESS TO THE ALERT SYSTEM IN AN EMERGENCY, OR REQUIRE FORCE TUNING TO THE GOVERNMENT CHANNEL WHERE EMERGENCY MESSAGES ARE CARRIED?)].* These emergency alert requirements provide an important avenue of communication with our residents in the event of an emergency. *[USE THE FOLLOWING IF APPLICABLE]* An example of when this function has been helpful is the following: *[PROVIDE AN EXAMPLE OF YOUR COMMUNITY'S USE OR RELIANCE ON THE LOCAL EMERGENCY ALERT SYSTEM AS CARRIED OVER THE CABLE SYSTEM].*

### **PEG Access Services**

(Name of PEG Access Organization) has provided access services in our community for \_\_\_\_ years. The number of access channels we operate is \_\_\_\_\_. In our most recently completed fiscal year, (Name of PEG Access Organization) provided \_\_\_\_\_ hours of new original local programming to the cable subscribers. The community used our equipment and facility \_\_\_\_\_ times for \_\_\_\_\_ hours of use. Below are the highlights of our services to the community.

*[BELOW IS A LIST OF PUBLIC INTEREST SERVICES WHICH MAY BE PROVIDED VIA CABLE TV. PLEASE INDICATE WHICH SERVICES YOUR ORGANIZATION PROVIDES AND DELETE THOSE SERVICES WHICH YOU DO NOT PROVIDE. PLEASE FEEL FREE TO ADD NARRATIVE TO DESCRIBE YOUR SERVICES AND INCLUDE AS MUCH FACTUAL AND NUMERICAL INFORMATION AS POSSIBLE, I.E., 300 PEOPLE ATTENDED YOUR MEDIA EDUCATION/TRAINING WORKSHOPS. PLEASE USE NO MORE THAN 2 PAGES TO DESCRIBE YOUR ANSWER FOR THIS SECTION.]*

- Video bulletin board with text and graphics for community announcements.
- Interactive bulletin board where, using the telephone, viewers can retrieve specific community information to their tv screen.
- Coverage of community planning forums, town hall meetings, and neighborhood board meetings.
- Community-produced television programming for special interests (such as - seniors, non-English-speaking, ethnic and cultural groups, youth, people with disabilities, advocacy groups, health care, etc.)

- Staff-produced television programming on topics of interest to the local community.
- Dedicated channel capacity specifically for non-profit organizations to air locally-produced programming.
- Dedicated channel capacity specifically for religious organizations to air locally-produced programming.
- Hotline studios for live, interactive programs that allow local experts to answer viewer questions.
- Free viewing of cable service at selected public sites.
- Local news coverage (not on local broadcast stations).
- Grants to produce community programming.
- Media literacy and production training for neighborhood based community organizations and individuals.
- Video production courses.
- Video production facilities including studio, field, editing, and, if available, remote van.
- Support to Media Training Centers in local schools, enhancing learning opportunities for students.
- Satellite program reception and redistribution.
- Technical design, installation, and maintenance support.
- Open mic format service such as a free speech soap box.
- Local political coverage, candidate platform statements and candidate debates during campaign season.
- Distance learning: Programming delivered to public and private institutions, facilitating distribution of for-credit instruction.
- Gavel-to-gavel coverage of educational governance proceedings.

- "E-School": Programming delivered to the home via video, e-mail, and web-based content. Can include support to traditional learning (such as "Homework Hotline") or fully-electronic course delivery.
- Production, support, and distribution for non-credit classes and job training.
- Distribution of community college and university educational programming.
- Internet access at public sites.
- Computer literacy training for youth and families.
- Unique non-local programming available via satellite feed such as Arts Showcase, Mind Extension University, and SCOLA or other international news.
- Gavel-to-gavel coverage of state legislative sessions, hearings, and other select proceedings.
- Gavel-to-gavel coverage of local government meetings/hearings and other select "local" governmental proceedings.
- Viewer questions answered during live call-in segments of government meetings.
- Interactive participation in government meetings at community sites.
- Election night coverage.
- "24-Hour City Hall" video kiosk or computer access to government services such as permits, etc.
- Local services via I-Net and cable modem. (High speed data, voice, and video linkage between public buildings. Can include services such as traffic light monitoring, live interactive court arraignments, video transmission to remote sites, emergency communications services such as 911, and subscriber broadband access.)
- Other

### **The Franchising Process**

*[IF YOU HAVE EVER WORKED TOGETHER WITH OTHER COMMUNITIES, FORMALLY OR INFORMALLY, TO FRANCHISE OR RENEW A CABLE OPERATOR, YOU CAN SAY THE FOLLOWING -- OTHERWISE DELETE THIS PARAGRAPH.]*

The cable system(s) serving our community also serves many adjoining communities: *[insert as many as you easily know]*. In *[year]* our community worked together with approximately *[number]* other communities to issue a cable franchise for the *[name]* cable company. This allowed the company to quickly obtain franchises in these communities so as to be able to serve a large region, while also allowing for individual provisions in specific franchises in order to tailor them to meet local needs.

Under the law, a cable franchise functions as a contract between the local government (operating as the local franchising authority) and the cable operator. Like other contracts, its terms are negotiated. Under the Federal Cable Act it is the statutory obligation of the local government to determine the community's cable-related needs and interests and to ensure that these are addressed in the franchising process – to the extent that is economically feasible. However derived (whether requested by the local government or offered by the cable operator), once the franchise is approved by both parties the provisions in the franchise agreement function as contractual obligations upon both parties.

While a franchise is negotiated by the local government as a contract, the process provides notice requirements for the public and the cable operator under state and local law. For instance: *[DESCRIBE AND DISCUSS PUBLIC READING/PUBLIC HEARING/PUBLIC NOTICE REQUIREMENTS. FOR INSTANCE, IS THERE AN ORDINANCE SETTING FORTH SUCH REQUIREMENTS? ARE THERE STATE LAW REQUIREMENTS GOVERNING THESE AREAS? DESCRIBE THE PROCESS.]*

### Competitive Cable Systems

Our community *[PICK ONE OR FILL IN AS APPROPRIATE, THEN DELETE THE ONES WHICH ARE NOT RELEVANT.]*

- has never been approached by a competitive provider to provide service.
- was approached once *[DISCUSS WHEN]*, but the provider chose not to enter into any formal discussions.
- has actively sought out competitive providers, but has not been successful.
- granted a competitive franchise to *[name of company]*, a cable overbuilder, in *[year]* and that provider *[is/is not]* providing service in my community today. *[IF PROVIDER IS NO LONGER PROVIDING SERVICE, EXPLAIN WHY. IF PROVIDER IS STILL PROVIDING SERVICE, DESCRIBE ANY DIFFERENCES IN THE AGREEMENTS OF THE INCUMBENT PROVIDER'S FRANCHISE (DISCUSSED ABOVE) AND*

*THE AGREEMENT HELD BY THE OVERBUILDER. INCLUDE A DISCUSSION OF WHY THOSE DIFFERENCES ARE PRESENT.]*

- has been threatened or sued by an incumbent provider when considering a grant of a competitive franchise. *[DISCUSS THE CIRCUMSTANCES SURROUNDING THIS EVENT]*.
- has recently been approached by a Bell Operating Company to provide service. *[DISCUSS THE STATE OF THESE NEGOTIATIONS AND WHAT THE COMPANY HAS SOUGHT IN TERMS OF FRANCHISE REQUIREMENTS AS COMPARED TO THE INCUMBENT PROVIDER.]*
- has *[OR has not]* denied any provider the opportunity to serve in our community.
- does *[OR does not]* have mechanisms in place to offer the same or a comparable franchise to a competitor upon request.

*[IN GENERAL, WITH REGARD TO THE ABOVE -- WHERE DISCUSSIONS AND/OR NEGOTIATIONS WERE CONDUCTED, TO THE EXTENT YOU KNOW, PLEASE PROVIDE INFORMATION ON THE NATURE OF THE NEGOTIATIONS: SUCH AS WHEN FIRST APPROACHED, LENGTH OF ACTUAL TIME SPENT IN DISCUSSIONS, LENGTH OF TIME FROM RECEIPT OF FORMAL APPLICATION TO GRANT OR DENIAL, ETC. DESCRIBE HOW COOPERATIVE THE COMPETITIVE FRANCHISE APPLICANT WAS IN NEGOTIATING THE FRANCHISE (FOR EXAMPLE, WAS IT WILLING TO AGREE TO A FRANCHISE COMPARABLE TO THE INCUMBENT'S IN TERMS OF PEG AND I-NET SUPPORT, OR DID IT INSIST ON USING ITS OWN "FORM" OF FRANCHISE WHICH WAS MORE FAVORABLE TO IT THAN THE INCUMBENT'S?). ALSO, DISCUSS WHETHER YOU SOUGHT TO HAVE THE NEW ENTRANT BUILD OUT THE ENTIRE FRANCHISE AREA (OR THE SAME AREA AS THE INCUMBENT), AND IF SO HOW MUCH TIME YOU GAVE FOR THAT PURPOSE.]*

### Conclusions

This NPRM is only looking retrospectively at one aspect of the franchising process. We believe that the Commission must look to the future of the public's interest in telecommunication's services. The existing franchising process has provided a basis for public interest services appropriately tailored to each community's local needs. We believe that those services such as PEG should be required of all broadband telecommunications providers.

The local cable franchising process has functioned well in *[Name of community]*. As the above information indicates, we are experienced at working with cable providers, the local franchise authority, and community interests to both see that the needs of the local community are met and to ensure that the practical business needs of cable providers are taken into account.

Local cable franchising ensures that local cable operators are allowed access to the rights of way in a fair and evenhanded manner, that other users of the rights of way are not unduly inconvenienced, and that uses of the rights of way, including maintenance and upgrade of facilities, are undertaken in a manner which is in accordance with local requirements. Local cable franchising also ensures that our local community's specific needs are met and that local customers are protected.

Local franchises can also ensure that the cable operator provides the PEG Access services which are responsive to the local community needs as determined through community needs assessments and the local knowledge of educators, local elected officials and local nonprofit organizations.

Local franchises thus provide a means for local government to appropriately oversee the operations of cable service providers in the public interest, and to ensure compliance with applicable laws. There is no need to create a new Federal bureaucracy in Washington to handle matters of primarily local interest.

Local franchises allow each community, including ours, to have a voice in how local cable systems will be implemented and what features (such as PEG access, institutional networks or local emergency alerts, etc.) will be available to meet local needs. These factors are equally present for new entrants as for existing users.

The [*Name of PEG Access Organization*] therefore respectfully requests that the Commission take this opportunity to reaffirm the primacy of local government authority over franchising and should make clear that imposition on a new entrant of PEG Access, consumer protections and other public interest services requirements that are equivalent to those of the incumbent does not constitute an unreasonable refusal to award an additional competitive franchise within the meaning of federal law..

The PEG Access model should be strengthened and applied to new technologies, assuring that localism and community participation are not displaced by commercial interests.

The nation would be well served by a policy of "Community Reinvestment" through PEG Access that includes funds and bandwidth and/or spectrum that will be used for public purposes by:

1. Allowing the local community which owns the public rights-of-way to franchise and determine the best use of the community's property;
2. Dedicating ten percent of the public airwaves and capacity on communication facilities that occupy public rights-of-way to PEG use for free speech, diverse points of view, local programs, community based education and political speech;



3. Mandating funding of five percent of gross revenues above and beyond any franchise fee to local authorities from all infrastructure and service providers and spectrum licensees to support PEG equipment, facilities, training and services; and,
4. Making PEG Access universally available to any consumer of advanced telecommunications services capable of full-motion video.

Respectfully submitted,

*[Name of PEG Access Organization]*

By: *[Name of Organization Official]*  
*[Address]*

cc: Alliance for Community Media, [Getup@alliancecm.org](mailto:Getup@alliancecm.org)